

# Live

FROM BRUSSELS

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**HOTREC**

Hotels, restaurants & cafés in Europe

Under the responsibility of

Marguerite Sequaris,

Chief Executive of HOTREC

111, boulevard Anspach – boîte 4

B-1000 Bruxelles – Belgique

Tel.: 32 2 513 63 23

Fax: 32 2 502 41 73

E-mail: [main@hotrec.org](mailto:main@hotrec.org)

[www.hotrec.org](http://www.hotrec.org)

## **SOCIAL AFFAIRS**

### **□ *European Parliament leaves workers' protection from sunshine to Member States***

The European Parliament amended on 7 September 2005 in second reading the draft Directive of the Council according to which employers across the EU would be obliged to take measures protecting workers against exposure to sunshine, including risk assessment and information. The European Parliament voted to leave such protection as an option for Member States. The crucial amendment reads:

*“In the case of workers exposed to natural sources of optical radiation, the definition of any obligations imposed on the employer to assess risks to health and safety shall come within the regulatory competence of the Member States.”*

The amendment was supported in particular by the conservatives (EPP) and the liberals (ALDE) with the socialists (PES) voting against. The Employment Commissioner, Mr. Vladimir Spidla, subsequently announced that he was willing to remove the reference to sunlight in the Directive in line with the Commission's ambition to avoid over-regulation.

Both the Council and the Parliament need to agree on a common text for the legislation to pass. The ball is now in the Council's court, which must respond to the Parliament's amendment within three months. Should it not accept the Parliament's amendment, a conciliation procedure between the two institutions will take place.

*HOTREC is pleased that the Parliament voted to make worker protection from sunshine optional at national level. Along with several of its Member Associations it had written to Members of the European Parliament stressing the unnecessary burden which such requirements would result in for employers in the hospitality industry.*

### **□ *Protection of workers from passive smoking***

As previously reported in *Live from Brussels N° 30, 31 and 32*, the European Commission launched, in April 2004, a first-stage consultation with the social partners regarding the revision of Directive 1990/394 on the protection of workers against the risks related to carcinogens or mutagens at work (codified after several amendments as Directive 2004/37). One of the suggestions made in the consultation document was that environmental tobacco smoke could possibly be included in a revised Directive.

After more than a year of reflection and research, the Commission is now due to issue a document for the second stage of the consultation with the social partners. The document is currently undergoing internal review by various Commission departments and the consultation process is expected to begin end October 2005. It remains to be seen whether the Commission intends to pursue the issue of tobacco smoke in the context of the revision of the Directive.

*HOTREC replied in the first stage of the consultation that it would be contrary to the subsidiarity principle for EU to regulate rules on smoking in workplaces. Decisions in this area should be left to the Member States. HOTREC therefore hopes that the second consultation document will not contain any references to passive smoking.*

□ ***EFFAT-HOTREC working group on e-learning***

On 16 September 2005, HOTREC organised, together with its trade union counterpart EFFAT, a seminar on e-learning in Brussels. The seminar brought together experts from several European countries who shared information on the current status of e-learning in the hospitality industry.

A general conclusion of the meeting was that, while there is plenty of e-learning material in the market, the challenge is to make sure that it stays there over the longer term and actually reaches the end-users, i.e. workers in the hospitality industry. For this to be achieved, more partnership and dialogue between the stakeholders (e.g. schools, trade unions, and employers) is needed. A number of suggestions for possible action at European level were made, including increase in funding for e-learning projects and the setting up of websites/data bases for sharing information and exchanging good practice.

*In the context of their sectoral social dialogue, EFFAT and HOTREC have analysed the issue of e-learning for a number of years. In coming meetings in 2005 and 2006, the social dialogue committee will build on the contributions of the experts in the working group and examine what, if anything, the European social partners can add to the development and spread of e-learning in the hospitality industry.*

## **VAT**

□ ***Call by the European Parliament and by HOTREC for the adoption of the July 2003 Commission proposal on VAT rates***

As explained in previous issues of *Live from Brussels*, the European Commission July 2003 proposal revisited the current list of goods and services (Annex H to Directive 1992/77), to which Member States may choose to apply a reduced rate of VAT, and proposed to include restaurant services in the list, alongside accommodation services.

However, the necessary unanimity within the Council of Ministers has not been found so far. In its Resolution of 8 September 2005, the European Parliament “*calls on the Council urgently to conclude the decision-making process on the proposal for a Council Directive... as regards reduced rates of value added taxes, so as to enable all Member States to apply in a structured way reduced VAT rates for restaurants, as already exist for other tourism-related activities, such as holiday accommodation, plots on campsites, hotels and amusement parks*”. In a similar manner, the new brochure on VAT, which HOTREC will release on the occasion of its General Assembly in Vienna later in October, is entitled “*A reduced VAT rate for hospitality and tourism in Europe - An urgent call for the adoption of the July 2003 Commission proposal in relation to VAT rates*”.

Some articles in the press report that the British Presidency has recently proposed a compromise text, based on the Luxembourg Presidency compromise of May 2005 (see on this *Live from Brussels* N° 34) and invited all delegations to make suggestions. The next meetings of ECOFIN (Council of the Ministers for Economic and Financial Affairs) are scheduled on 11 October, 8 November, 24 November and 6 December 2005.

*HOTREC has always advocated the application of the lowest possible rate of VAT to accommodation and restaurant services in all Member States.*

## **COPYRIGHT**

### **□ *Commission draft proposal for online music copyright***

As reported in *Live from Brussels N° 34*, the European Commission is planning an initiative on the collective management of copyright which is geared towards the interests of rightholders rather than of users. Exclusively focused on licensing for online music providers, the draft of 12 September 2005 aims notably at:

- stimulating the growth of legitimate online services by providing for multi-territorial licenses;
- creating competition between collecting bodies by authorising rightholders to transfer the administration of their online rights to a foreign collecting body of their choice (“unbundling”); and
- introducing increased transparency in the management of collecting bodies.

At present the proposal from the Commission’s Copyright Unit is undergoing an internal review by various Commission departments. If the Commission agrees with the draft, the measure will take the form of a Commission Recommendation, i.e. a non-binding instrument, to the Member States.

*HOTREC has submitted critical comments to the Copyright Unit concerning its plans on copyright management. The current initiative does not apply to the off-line market for copyright and, regardless of its scope, seems unlikely to bring any real improvements to users in terms of reduced tariffs and easier access to arbitration.*

*Together with a number of similarly-minded user organisations at European level (representing retail, television, cable communications, radio, performing arts employers, and digital media), HOTREC has asked the Commission for a more balanced proposal which also takes into account the concerns of users. The organisations also questioned whether a non-binding instrument would have the desired impact.*

## **INTERNAL MARKET FOR SERVICES**

### **□ *Services Directive – Parliament first reading delayed***

On 4 October 2005, the Internal Market Committee of the European Parliament was scheduled to vote on over 1000 amendments to the Commission proposal for an internal market in services. The Committee decided, however, to delay the vote until 21 November in order to have sufficient time to consider compromise amendments which were submitted at a late stage by the conservative (EPP) and liberal (ALDE) party groups.

As a result of the decision, the first reading in plenary will only take place in January 2006, during the Austrian EU presidency.

It appears that the differences between the socialists and the greens, on the one hand, and the conservatives and the liberals, on the other, remain important, in particular as far as the principle of origin is concerned.

*HOTREC is mainly concerned about the section on “quality of services” of the Commission proposal (Article 31), which among other things calls for more standards to be developed in the area of services. HOTREC has expressed its position to both the Commission and the Parliament, according to which standards should be left to industry and remain fully market-driven.*

## **STATISTICS**

### **□ *Revision of the tourism statistics Directive***

The European Commission is planning a revision of Council Directive 1995/57 on the collection of statistical information in the field of tourism. Under the Directive, data are gathered in relation to hotel capacity (number of rooms and beds), hotel guest nights, and tourism trips and expenditure. The discussions on amending the Directive are still in a preliminary phase where concrete proposals have not yet been tabled. A new Directive is not likely to be ready before 2008.

*A HOTREC delegation met with EUROSTAT officials in Luxembourg in September. The importance of reliable and accurate statistics to the European hospitality industry was stressed. HOTREC intends to contribute actively to the process of preparing an amended Directive in order to make sure that the data collected reflect as much as possible the needs of the hospitality industry.*

## **AIR TRAVEL**

### **□ *Taxing airlines?***

The introduction of a contribution on air tickets to finance development aid (see *Live from Brussels N° 34*) was discussed at the informal meeting of EU finance ministers in Manchester on 9-10 September 2005. The press release of the British EU Presidency made clear the absence of consensus on this matter, stating that only a group of EU countries will go ahead with an air ticket contribution whereas other countries are still considering whether to participate or not.

The European Commission had prepared a technical analysis for the meeting which set out two options for raising the contribution: either a voluntary payment by passengers or a compulsory levy. The Commission found that the impact of a compulsory levy on tourism was difficult to quantify due to the lack of time for preparing a proper impact assessment. However, peripheral and island countries and regions that are more dependent on aviation for transport would be more affected.

At present only France seems determined to go ahead with the tax among the EU countries. The UK has stated it will channel money for development from an existing duty. The likelihood of a coordinated EU scheme therefore appears very small in the current situation.

In a separate development, the Commission suggested in a Communication entitled “*Reducing the climate change impact of aviation*” (COM (2005) 459) that air transport emissions should be included in the EU emissions trading scheme, which was set up to implement the EU’s obligations under the Kyoto Protocol.

*It seems there are presently several parallel – and potentially competing – initiatives which will result in increased costs for air transport. Although the objectives vary from development aid to environmental protection, the likely effect of these initiatives will be to increase the price of air tickets and reduce demand for air travel. HOTREC advises decision-makers to carefully consider the impact on jobs and growth in tourism – including in developing countries – before embarking on any such initiatives.*

## **TRAVEL TRADE**

- ***Revision of the package travel Directive? Or a Directive on protection of consumers in relation to tourism?***

The Directive on package travel was adopted on 13 June 1990 and had to be implemented at national level by 31 December 1992.

A “*tour organiser*” is defined as “*the person who, other than occasionally, organises packages and sells or offers them for sale, whether directly or through a retailer*”. According to the Directive, a “*package tour*” consists of two of the following three elements: transport, accommodation (this includes catering within hotels), and other tourist activities not auxiliary to the above two but accounting for a substantial portion of the package.

The Directive contains rules concerning the liability of package organisers and retailers, who are “*liable to the consumer for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be performed by that organizer and/or retailer or by other suppliers of services without prejudice to the right of the organizer and/or retailer to pursue those other suppliers of services*”. In other words, when there is a failure in the performance of a hotel, the consumer can complain to the tour operator, who is liable directly to him. Then the tour operator can recover from the hotelier the compensation paid to the consumer.

Furthermore, the organiser and/or retailer party to the contract shall provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency.

The possibility of hoteliers being branded as tour organisers should they provide more than simply accommodation (e.g. a golf holiday or renting of conference rooms) leads to some confusion. In 1994, the Commission clarified that meals, fitness facilities and excursions would not be considered as part of a package in so far as these did not constitute a significant portion of the package and were not sold at an inclusive pre-negotiated price. Excursions offered on the spot are not considered as a package tour either.

In 2004, the European Commission launched a study on the implementation of eight Directives in the field of consumer protection, among which the package travel Directive.

According to the European Commission official dealing with the issue, the study is still in preparation stage and should be finalised and published in autumn 2006. A Standing Committee of Member States experts will be set up this autumn and a consultation of stakeholders shall be undertaken during the first semester of 2006 in order to discuss the comparative analysis of the application of the Directive in the Member States.

At the end of this process, the Commission could choose between two approaches:

- a vertical approach consisting of the individual revision of existing Directives (e.g. revision of the package travel Directive) or the regulation of specific sectors (e.g. Directive on tourism, including provisions of the package travel);
- a more horizontal approach, adopting one or more framework instruments to regulate common features of the “*acquis*”\*. This framework instrument would provide common definitions and regulate contractual rights and remedies.

*The hospitality industry as well as the tour operator / travel agent industry are obviously very concerned with any development in relation to the 1990 package tour Directive, but not for the same reasons. HOTREC will have to watch that the revision does not add to the burdens for hoteliers.*

## **TOURISM**

### **□ *European Parliament Resolution on “New prospects and new challenges for sustainable European tourism”***

The European Parliament “own initiative” report on “*New prospects and new challenges for sustainable European tourism*” for which MEP Mr. Luís Queiró was rapporteur, resulted in a European Parliament Resolution, which was voted in plenary session in September 2005. It is important to note that an “own initiative report” has a limited impact only, as it is not directly linked to the legislative process.

The report touches upon a great number of issues, among which VAT, fire safety, classification, spreading of holidays, low cost airlines etc.

*As indicated in a separate article, HOTREC very much appreciates the call for reduced VAT rates for restaurants.*

*HOTREC is, however, concerned about the provision calling for a “Community-wide classification of tourist services... to be used in particular for the classification of hotel facilities”.*

### **□ *Commissioner Verheugen attacks excessive regulation for tourism!***

On the occasion of the debate on this “own initiative” report, Commissioner Verheugen stressed that the European Commission would not fall into the trap of being asked to legislate more in relation to the tourism sector.

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\* This is a French term meaning, essentially, “the EU as it is”. The Community “*acquis*” is the body of common rights and obligations which bind all the Member States together within the European Union.

The Commissioner also confirmed the opinion he already expressed earlier this year, that the tourism industry is number “one” in terms of potential growth in the coming years.

The Commissioner uttered a clear NO in reply to the European Parliament calls for more European binding rules and European standards for the sector. He made clear that it is up to the entrepreneurs, and to them only, to decide which quality standards should apply to their services: the European public authorities have no role to play there.

The Commissioner also called upon the European Parliament to be more coherent in its demands: it cannot at the same time criticise the Commission for intervening too much in the private business sphere and ask it to take over the business responsibilities of the sector.

*HOTREC fully agrees with the views of the Commissioner. For many years, HOTREC has argued that the quality of services and all related matters, such as classification of establishments, should be left to the industry: the development of any instruments relating to these issues should remain fully market driven.*

□ **World Tourism Day – ECOSOC**

On 27 September 2005, on the occasion of “World Tourism Day” - celebrated by WTO (World Tourism Organisation) since 1980 to foster awareness among the international community of the importance of tourism and its social, cultural, political and economic values - the European Economic and Social Committee organised an exchange of views on the issue of “Tourism in the EU: Involvement and challenges”.

Participants included representatives from the European Institutions, several organisations dealing with tourism business and the three ECOSOC groups (employers, employees, various interests)

*The President of HOTREC, Mr. Bernd Geyer, made a brief intervention on behalf of the hospitality industry at this event, which looked very much like a short rehearsal for the European Tourism Forum, to be held in Malta later in October 2005.*

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